



Security Council

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Letter dated 9 August 2000 from the Permanent Representative of Sierra Leone to the United Nations addressed to the President of the Security Council

On the instructions of my Government, I have the honour to forward herewith a letter dated 12 June 2000, with an enclosure, from Alhaji Ahmad Tejan Kabbah, President of the Republic of Sierra Leone, on the proposed special court for Sierra Leone (see annex).

I should be grateful if the present letter and its annex could be issued as a document of the Security Council.

(Signed) Ibrahim M. Kamara
Ambassador
Permanent Representative



Annex to the letter dated 9 August 2000 from the Permanent Representative of Sierra Leone to the United Nations addressed to the President of the Security Council

12 June 2000

On behalf of the Government and people of the Republic of Sierra Leone, I write to request you to initiate a process whereby the United Nations would resolve on the setting up of a special court for Sierra Leone. The purpose of such a court is to try and bring to credible justice those members of the Revolutionary United Front (RUF) and their accomplices responsible for committing crimes against the people of Sierra Leone and for the taking of United Nations peacekeepers as hostages. This necessitates the establishment of a strong court in order to bring and maintain peace and security in Sierra Leone and the West African subregion. For this purpose, I request assistance from the United Nations Security Council in establishing a strong and credible court that will meet the objectives of bringing justice and ensuring lasting peace. To achieve this, a quick response from the Secretary-General and the Security Council is necessary.

As you are aware, the atrocities committed by the RUF in this country for nearly 10 years in its campaign of terror have been described generally as the worst in the history of civil conflicts. In July 1999, my Government and the leadership of the RUF signed the Lomé Peace Agreement. The aim of this Agreement was to bring peace and a permanent cessation to those atrocities and the conflict. As a prize for such peace, my Government even conceded to the granting of total amnesty to the RUF leadership and its members in respect of all the acts of terrorism committed by them up to the date of the signing of that Peace Agreement.

But the RUF leadership have since reneged on that Agreement, and have resumed their atrocities, which have always had as their targets mainly civilians, including women and children. They still murder and amputate them and use the women and girls as sex slaves. Lately, they have abducted over 500 United Nations peacekeepers and seized their arms, weapons and uniforms, and even killed some of the peacekeepers. This is in spite of a provision in the Lomé Peace Agreement itself requiring both my Government and the RUF to ensure the safety of these peacekeepers. In the process, the RUF have committed crimes against Sierra Leonean and international law and it is my Government's view that the issue of individual accountability of the leadership of the RUF for such crimes should be addressed immediately and that it is only by bringing the RUF leadership and their collaborators to justice in the way now requested that peace and national reconciliation and the strengthening of democracy will be assured in Sierra Leone.

I am aware of similar efforts made by the United Nations to respond to similar crimes against humanity in Rwanda and the former Yugoslavia. I ask that similar considerations be given to this request.

I believe that crimes of the magnitude committed by the RUF in this country are of concern to all persons in the world, as they greatly diminish respect for international law and for the most basic human rights. It is my hope that the United Nations and the international community can assist the people of Sierra Leone in bringing to justice those responsible for those grave crimes.

Because of the sensitivity aroused in Sierra Leone and around the world by the activities of the RUF and their collaborators and the need to dispose of the matters to be tried at the proposed tribunal without delay, I am inviting you or the Security Council to send to Sierra Leone immediately a rapid response team of inquiry to assess the needs and concerns regarding my Government's ability to provide effective, secure, fair and credible justice.

With regard to the magnitude and extent of the crimes committed, Sierra Leone does not have the resources or expertise to conduct trials for such crimes. This is one of the consequences of the civil conflict, which has destroyed the infrastructure, including the legal and judicial infrastructure, of this country. Also, there are gaps in Sierra Leonean criminal law as it does not encompass such heinous crimes as those against humanity and some of the gross human rights abuses committed by the RUF. It is my view, therefore, that, unless a court such as that now requested is established here to administer international justice and humanitarian law, it will not be possible to do justice to the people of Sierra Leone or to the United Nations peacekeepers who fell victim to hostage-taking.

I attach hereto a suggested framework for the type of court intended (see enclosure). As you can see, the framework is meant to produce a court that will meet international standards for the trial of criminal cases while at the same time having a mandate to administer a blend of international and domestic Sierra Leonean law on Sierra Leonean soil.

(Signed) Alhaji Ahmad Tejan **Kabbah**
President of the Republic of Sierra Leone

Enclosure

Framework for the special court for Sierra Leone

1. Court created by the United Nations Security Council

This will be a special court for Sierra Leone created by the United Nations Security Council that will take into account the special needs and requirements of the Sierra Leone situation. It should be a court that is flexible in law and venue.

A court created under the Security Council's authority will have the advantage of strong enforcement powers that will call for cooperation from States in investigations, arrests, extradition and enforcement of sentences. It will also call for voluntary financial contributions to a trust fund that will pay for the investigations, the operations of the court and the enforcement of its sentences.

Immediately after the adoption of the resolution now requested establishing the court, the Security Council should send a rapid response team of inquiry to Freetown to explore the extent of the violations and the facilities necessary in Sierra Leone to bring credible and secure justice. This will at once send the right signals to the perpetrators of the violations that they will not continue committing atrocities with impunity, and the population of Sierra Leone too will be assured that the process to address those atrocities and to do justice to them has commenced.

2. Mandate of the court

The mandate of the court could be designed to be narrow in order to prosecute the most responsible violators and the leadership of the Revolutionary United Front. This could result in the numbers being limited to the dozens. This will also allow the court to be quick and efficient in its tasks of doing justice while at the same time breaking the command structure of the criminal organization responsible for the violence.

The mandate will need to be continuing into the immediate future to address both current and future violations until peace and security return to Sierra Leone.

3. Applicable law: a blend of international and domestic Sierra Leonean law

The court could be designed to use a blend of both international law and Sierra Leonean criminal law and procedure. Such use of law will allow for flexibility in the charging of offences that were committed during the relevant period. It will also cast a wider web to catch the leaders of the violence and atrocities committed. Some of the international crimes are certainly crimes against humanity and humanitarian law and the war crimes of attacking personnel or objects involved in humanitarian assistance or peacekeeping missions. Other crimes to be taken into account are grave criminal offences and for them the domestic law of Sierra Leone will be used in the court.

This approach roots the process in Sierra Leone and makes it uniquely Sierra Leonean.

4. Seat of the court

The court could be created in such a way as to have the ability to sit in Sierra Leone for the pre-trial and trial phases but also to move outside Sierra Leone if security becomes an issue. The language establishing the court could call for "giving preference" to the proceedings occurring in Sierra Leone. The precise location outside Sierra Leone should be determined at the outset and should be one that is secure and free of undue influence. The result is that the venue of the court should be flexible to allow it to move in and out of Sierra Leone depending on the security environment.

Assistance should be provided to strengthen the security and the infrastructure of the Sierra Leone court, detention facilities and institutions. International personnel should also be appointed to assist in providing security and training.

5. Judges

The court should be structured with a single trial chamber consisting of three judges who will hear the cases. The judges could be drawn from West Africa and possibly other parts of the world. Other judges could be appointed to hear pre-trial motions. Additional judges could be appointed at a later date to be trial judges if the caseload demands it.

6. Court of appeals

The court of appeals for Rwanda and for the former Yugoslavia based in The Hague could be used as the court of appeals for the special court for Sierra Leone.

7. Prosecuting attorney

The court could be structured so that the Attorney-General of Sierra Leone is the chief or co-chief prosecutor of the court. This structure will allow the Government of Sierra Leone to play a lead role in the prosecution while receiving international assistance and expertise. A co-prosecutor formula will also allow the international community to be represented for the international crimes committed against the peacekeepers. The two prosecutors will be in charge of a team of prosecutors and investigators (consisting of international and Sierra Leonean investigators) who will have the ability to investigate both within and outside Sierra Leone for crimes committed against Sierra Leone.

8. Defence counsel

The court should allow for qualified lawyers and defence investigators to serve and assist the accused persons. The counsel can come from any country provided that they are competent.

9. United Nations Mission in Sierra Leone

Consideration should be given to mandating support from the United Nations Mission in Sierra Leone in the areas of apprehension and security in the field.

10. Enforcement of sentences

The resolution creating the court should allow for the sentence of a convicted person to be served within Sierra Leone. To enable this to be done, consideration should be given to enhancing Sierra Leonean prisons to allow for secure incarceration within Sierra Leone.
